

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL E. SCOTT,
Petitioner,

vs.

T. FELKER, Warden,
Respondent.

No. C 06-1147 JSW (PR)

**ORDER DENYING
CERTIFICATE OF
APPEALABILITY**

(Docket Nos. 34, 35, 36)

Petitioner, a prisoner of the State of California, filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition was denied on its merits. Petitioner has filed a request for an extension of time to file a notice of appeal, a notice of appeal and a request for a certificate of appealability.

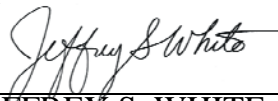
Petitioner's motion for an extension of time is GRANTED (docket no. 34).

Upon the filing of a notice of appeal and a request for a COA, the district court shall indicate which specific issue or issues satisfy the standard for issuing a certificate, or state its reasons why a certificate should not be granted. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997). (citing 28 U.S.C. § 2253(c)(3)). A judge shall grant a COA "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not shown that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, Petitioner's request for a certificate of appealability is DENIED (docket no. 36).

1 The Clerk of Court shall forward this order, along with the case file, to the
2 United States Court of Appeals for the Ninth Circuit. Petitioner may also seek a
3 certificate of appealability from that court. *See Asrar*, 116 F.3d at 1270.

4 IT IS SO ORDERED.

5 DATED: May 26, 2009

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8 JEFFREY S. WHITE
9 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
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5
6 MICHAEL E SCOTT,

7 Plaintiff,

8 v.

9 T FELKER et al,

10 Defendant.
11 _____/

Case Number: CV06-01147 JSW


CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on May 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
17 receptacle located in the Clerk's office.

18 Michael E. Scott
19 K31521
20 S.V.S.P.
21 P.O. Box 1050
22 Soledad, CA 93960

23 Dated: May 26, 2009


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk